

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

JANE BOE, et al.

Plaintiffs,

vs.

HOWARD ZUCKER, et al.

Defendants.

Civil Action No.: 1:20 – CV – 0840 (BKS/CFH)

DECLARATION OF JANE BOE IN SUPPORT OF
PLAINTIFFS' MOTION FOR A PRELIMINARY
INJUNCTION

JANE BOE, pursuant to 28 U.S.C. § 1746 declares under penalty of perjury as follows:

1. I am the parent of a medically fragile child who has sought a medical exemption in the Three Village Central School District in New York since August, 2019.
2. I write this affidavit in support of the Plaintiffs' motion for a preliminary injunction and as a potential class member in this suit.
3. My child suffers from and is in current active treatment for autoimmune encephalitis, Postural Orthostatic Tachycardia Syndrome ("POTS"), dysautonomia, and chronic/severe Lyme disease and Bartonella..
4. These health issues cause a myriad of physical and neuropsychiatric symptoms including but not limited to neuro-inflammation, obsessive compulsive disorder, separation anxiety, depression, insomnia, neuro-visual processing disorder, brain fog, excessive fatigue, gas-

DECLARATION OF JANE BOE IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION - 1

1 tro intestinal issues, muscle tenderness, decrease in processing speed, and impaired
2 working memory. These symptoms must be managed carefully with all efforts made to
3 avoid exacerbations due to assaults to her immune systems.
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- 5 5. Our family has been traumatized and severely impacted by this medical condition as all
6 of my children have suffered from it. My son, now age 20, was debilitated by neuro-psy-
7 chiatric symptoms and processing issues. Following his diagnosis he received several
8 years of intensive treatment to modulate his immune system and is now in remission.
9 Upon medical advise he DID NOT receive the meningococcal vaccination or booster in
10 secondary school as required by NYS. Unfortunately treatment was not as successful for
11 my oldest son. He died tragically in 2018 at the age of 20 after experiencing severe
12 symptoms related to autoimmune encephalitis triggered by the meningococcal vaccine
13 (given against medical advice before freshman year of college), the flu vaccine and other
14 immune assaults.
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- 16 6. Our medical providers concluded that my daughter should avoid vaccination or any im-
17 mune assaults due to her medical condition, her history, which included prior adverse re-
18 actions to vaccines, and our family history, particularly my oldest son's reaction to the
19 vaccine and subsequent demise,
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- 21 7. In accordance with medical advice, my daughter did not receive the meningococcal vac-
22 cine as require by the NYS vaccine schedule..
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- 1 8. In December, 2019, my 15 year old daughter was excluded from high school because she
2 was denied a medical exemption for the meningococcal vaccine, which is the only vac-
3 cine on the NYS schedule that she is missing. She is otherwise fully vaccinated.
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- 5 9. At the start of the 2019 school year, we submitted a medical exemption ("ME") written
6 by my daughter's pediatrician, a licensed physician who has treated her since infancy.
7 Her pediatrician, in consultation with our out of state specialist who treats my daughter's
8 complex medical condition, determined that the meningococcal vaccine would be detri-
9 mental to her health and the risks outweighed the benefits of said vaccine. The ME was
10 completed by her pediatrician on the require NYS form.
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- 12 10. The form was submitted prior to the beginning of the school year. Upon receipt, he dis-
13 trict physician who, after a brief discussion with the pediatrician, denied the ME. He in-
14 dicated that although he wouldn't give my daughter the vaccine either, the ME wording
15 was insufficient and he had to deny it. In response to this denial, her pediatrician sub-
16 mitted a more detailed ME with pertinent language related to the emergency regulations
17 that were issued by the DOH in August, 2019. The district physician quickly denied the
18 ME, but suggested it be sent to the Department of Health for their guidance before a for-
19 mal denial was issued by the district. The ME was submitted to the DOH and "pending"
20 for several weeks. Just prior to the Thanksgiving break, we were notified that the ME
21 was denied and my daughter would be excluded from school on December 21, 2019.
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1 11. Upon exclusion we submitted another ME from a third physician with the hopes that the
2 ME would be accepted during the holiday break and she could return to school in Jan-
3 uary, 2020. This ME was immediately “denied” by the district physician and sent to the
4 DOH by the district. A formal decision would not be made until the DOH’s opinion was
5 received. So the ME was left to “pend” for an unspecified amount of time.
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8 12. I tried everything to expedite the DOH review of the ME so that my daughter could re-
9 turn to school. No one at the DOH would help facilitate a review. No one asked for ad-
10 ditional information or to speak with her treating physicians. There was no indication of
11 a timely review. We couldn’t have her attend school while the ME “pended” because the
12 uncertainty was taking a toll on her mental health. We also couldn’t risk her going back
13 to school in January, only to be excluded a few days or weeks later. She just couldn’t
14 handle that type of humiliation.
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18 13. . My daughter had endured severe hardship and anxiety waiting an entire semester for a
19 determination to be made about her ME. She went to school every morning petrified that
20 the letter kicking her out of school would be hand delivered that afternoon. Her grades
21 started plummeting and she began withdrawing from activities and social functions. She
22 lived in a constant state of fear, grief, and disbelief. Things only got worse for her when
23 she found out over Thanksgiving break that she would be forced leave her beloved school
24 to homeschool for the remainder of the year.
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1 14. On that last day of school in December, 2020, my daughter's heart was broken. She be-
2 gan homeschooling in January and it was isolating and depressing for her. Her grief ,
3 now compounded by the loss of her academic and social life, exacerbated her symptoms
4 and left her alone and ostracized. The school's refusal to accept the ME in December was
5 devastating. She felt rejected and betrayed by the school, wondering how they could
6 deny her a ME when her doctors believed she should be exempt. Since we were prohib-
7 ited from contacting or speaking with the district physician, we couldn't give her a good
8 reason as to why
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12 15. This process has been an ordeal for our entire family. It has been coercive and exploitive.
13 We were forced to choose between our child's health and her right to a public education.
14 She was forced to homeschool, which has had a personal and financial toll on us. We
15 needed to supervise her all day, every day and needed to pay thousands of dollars for an
16 online high school program that would keep her academically on par.
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19 16. My daughter belongs in her public high school. She belongs in an enriching academic
20 environment. She belongs in extra-curricular activities, socializing with her friends. She
21 belongs in a protected group of children who are medically exempt from getting a man-
22 dated vaccine that can cause major health consequences.
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25 17. Wherefore, I respectfully ask this Court to grant the relief and let our children remain in
26 school pending the outcome of this case.
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1 RESPECTFULLY SUBMITTED this 7th day of August, 2020
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A handwritten signature in black ink that reads "Jane Boe". The signature is written in a cursive style with a large, looped "J" and a stylized "B".

12 _____
13 [Initials]
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